

REMARKS

In the pending Office Action, Examiner Priddy has maintained and made final his prior restriction and election requirements. Consequently, claims 8-11 remain pending, and claims 1-7 and 12-40 have been withdrawn from consideration by the examiner. With this amendment, claims 16-34 have been cancelled without prejudice to reconsideration in this or a continuing application. Reconsideration of claims 8-11 is respectfully requested, along with consideration of new claims 41-50. New claim 41 is generic and allowable over the references of record, and therefore it is respectfully requested that original claims 1-7, 12-15 and 35-40 should also be considered at this time.

Turning first to pending claims 8-11, Examiner Priddy has initially rejected them as anticipated by the Yuan reference (U.S. Patent No. 5,437,669). That rejection is respectfully traversed on the grounds that the Yuan reference does not show all elements of any of claims 8-11.

The Yuan reference discloses a “connector assembly” 50 having a “connector body” 52 and “arms 53 and 54 projecting laterally therefrom.” *See* column 6, lines 54-56. If the examiner believes the entire “connector assembly” 50 is equivalent to the cross supports recited in claim 8, as he appears to propose, then claim 8 is not anticipated because Yuan does not show a mounting bracket attached midway between ends of that “connector assembly,” as claim 8 recites. Under that assumption, the “connector body” 52 is part of the cross support, and there is no mounting bracket attached to it. On the other hand, if the examiner considers Yuan’s “arms” to be equivalent to the cross supports, then claim 8 is not anticipated because Yuan does not show each of the arms having two ends, one of which is attached to one pedicle screw and the other of which is attached to another pedicle screw. Instead, the arms 53 and 54, as Yuan defines them in

the text of the reference, each have one end connected to a bone screw and the other connected to Yuan's connector body 52. The arms disclosed in Yuan join a screw and the "connector body." No reason appears from Yuan to modify its disclosure into the subject matter of claim 8. Indeed, the arms each connect a screw to a connector body at the angle Yuan discloses in order to clear parts of the vertebrae. Yuan shows arms oriented posteriorly with respect to the pedicle screw for that purpose, meaning that the screws are not oriented medially as disclosed, among other things, in the present application, with the attendant reduction in interference with the musculature of the back. The Yuan reference thus teaches away from the medial orientation and cross support structure disclosed in this application.

Further, Yuan also does not show features in the claims dependent from claim 8. For example, Yuan does not show a multi-axial cross support receiver as recited in claim 9. Examiner Priddy suggests that screw head 36 is multi-axial, but Figure 4 shows that not to be the case. Head 36 is shown integral with threaded portion 35, and is therefore monoaxial. The head 36 is not able to pivot with respect to threaded portion 35, and can only rotate around its respective arm. No indication from the figures or the text of Yuan has been found to indicate that the head 36 is a multi-axial cross support end receiver, as recited in claim 9.

Turning now to new claims 41-50, the Yuan reference does not show all elements recited therein. Among other things, the Yuan reference does not show portions of one or more arms that are at least one of coaxial and coplanar in a plane substantially non-parallel to the longitudinal support. Other features recited in the claims dependent from claim 41 are also lacking in the Yuan reference, including a medialized orientation of the pedicle screws, which can reduce injury, irritation or other interference with the workings of back muscles. Further,

changing Yuan to include the missing elements would change its principles of operation, as suggested above. For at least these reasons, claims 41-50 are allowable.

Claim 41, and perhaps others, are also generic to the species asserted by Examiner Priddy in the prior election requirement. Each of those species is a spinal fixation system comprising at least four pedicle screws spaced apart in two columns, at least one mounting piece, a longitudinal support, and one or more arms as recited. Accordingly, because claim 41 is an allowable generic claim, the remaining species and claims 1-7, 12-15 and 35-40 should be examined.

No amendments have been made to this application that narrow the claims or otherwise limit their scope. Applicant intends that the claims herein have the full scope permitted by their language, including a full range of equivalents.

In conclusion, Examiner Priddy is respectfully requested to reconsider this application as amended and in light of the foregoing remarks. Pending claims 8-11 and new claims 41-50 are allowable for at least the reasons noted above, and pending claims 1-7, 12-15 and 35-40 should be considered in light of the presence of an allowable generic claim. A Notice of Allowance in this case is hereby respectfully requested. The examiner is invited to call the undersigned attorney if there are any further issues to be resolved.

Respectfully submitted,

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